



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2013-0327]

RIN 1625-AA08

Regattas and Marine Parades in the COTP Lake Michigan Zone.

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking

SUMMARY: The Coast Guard proposes to amend special local regulations for annual regattas and marine parades in the Captain of the Port Lake Michigan Zone. This proposed rule is intended to provide for the safety of life and property on navigable waters immediately prior to, during, and immediately after regattas or marine parades. This proposed rule will establish restrictions upon, and control the movement of, vessels in a portion of the Captain of the Port Lake Michigan Zone.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2013-0327 using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail: Docket Management Facility (M-30), U.S.

Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

(4) Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email MST1 Joseph McCollum, Prevention Department, Coast Guard, Sector Lake Michigan, Milwaukee, WI, telephone (414) 747-7148, email Joseph.P.McCollum@uscg.mil. If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	<u>Federal Register</u>
NPRM	Notice of Proposed Rulemaking
CFR	Code of Federal Regulations

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

1. Submitting comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at www.regulations.gov, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when the comment is successfully transmitted. If you fax, hand deliver, or mail your comment, it will be considered received by the Coast Guard when the comment is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address,

or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number (USCG-2013-0327) in the "SEARCH" box and click "SEARCH."

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number (USCG-2013-0327) in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008 issue of the Federal Register (73 FR 3316).

4. Public meeting

We do not now plan to hold a public meeting, but you may submit a request for one using one of the four methods specified under ADDRESSES. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

B. Regulatory History and Information

On April 6, 2007, the Coast Guard published an NPRM for the events that are listed within this regulation and made them available for public comment (72 FR 17062). No comments were received. The Coast Guard followed this NPRM with a final rule on September 27, 2007.

C. Basis and Purpose

This proposed rule will remove 1 marine event and amend 5 annual marine events listed in 33 CFR 100. This proposed rule

will amend 33 CFR Part 100 by making updates within the following sections:

33 CFR 100.903, Harborfest Dragon Boat Race; South Haven, MI. The Harborfest Dragon Boat Race is an annual event involving an estimated 250 participants maneuvering self-propelled vessels within a portion of the Black River in South Haven, MI. The organizer for this event submitted an application showing a date that is different from what is currently codified within the CFR. For that reason the Coast Guard proposes to amend 33 CFR 100.903 to reflect an updated effective date for this event of Saturday and Sunday of the 4th weekend of June, from 6 a.m. until 7 p.m.

33 CFR 100.904; Celebrate Americafest; Green Bay, WI. This event will be removed by this proposed rule because it has been codified within 33 CFR 165.929 Safety Zones; Annual events requiring safety zones in the Captain of the Port Lake Michigan zone. The Coast Guard determined from past experience with this event that a safety zone best addresses the safety hazards associated with this event.

33 CFR 100.905; Door County Triathlon; Door County, WI. The swim portion of the Door County Triathlon is expected to involve thousands of participants in the waters of Horseshoe Bay - a portion of Green Bay. As this event is currently listed, the effective date expired on July 23 and 24, 2011. The Coast

Guard has spoken with the event organizer and confirmed that this Triathlon is expected to reoccur annually. For that reason, the Coast Guard proposes to amend 33 CFR 100.905 to reflect an updated effective date for this event. Likewise, this rule proposes to amend the location and size of the regulated area for this event. This rule proposes to shrink the size of the regulated area by 1000 yards and move the regulated area into the waters of Horseshoe Bay, some 600 yards southeast of its currently-listed location.

33 CFR 100.906; Grand Haven Coast Guard Festival Waterski Show; Grand Haven, MI. This rule proposes to amend the effective date of this event so that, should the date change, the Coast Guard will give notice to the public of the effective date by Notice of Enforcement.

33 CFR 100.907; Milwaukee River Challenge; Milwaukee, WI.

The Milwaukee River Challenge is a rowing competition involving 40' and 60' rowing shells. The event is expected to involve hundreds of participants and spectators. The event organizer for the Milwaukee River Challenge informed the Coast Guard that the Milwaukee River Challenge Race will take place at an earlier time than is currently listed in 33 CFR 100.907. The event organizer further informed the Coast Guard that the rowing shells involved in the Milwaukee River Challenge will race along a portion of the Menomonee River as well as the Milwaukee River.

As it is currently listed in 33 CFR 100.907, only the Milwaukee River is named within the "Regulated Area" section.

33 CFR 100.909; Chinatown Chamber of Commerce Dragon Boat Race; Chicago, IL. The Chinatown Chamber of Commerce Dragon Boat Race is an annual event involving an estimated 1000 participants maneuvering self-propelled vessels within a portion of the Chicago River in Chicago, IL. The organizer for this event submitted an application showing a date that is different from what is currently codified within the CFR, and is expected to differ in the future. For that reason the Coast Guard proposes to amend 33 CFR 100.909 to reflect an updated effective date for this event of the second Friday and Saturday of July from 11:30 a.m. to 5 p.m.

For each of these events, the Captain of the Port, Lake Michigan, has determined that the likely combination of a race involving a large number of competitors, spectators, and transiting commercial craft in a congested area of water presents significant safety risks. These risks include collisions among competitor and spectator vessels, injury to swimmers from transiting water craft, capsizing, and drowning.

D. Discussion of Proposed Rule

This proposed rule is intended to ensure safety of life and

property on the navigable waters immediately prior to, during, and immediately after regattas or marine parades. This proposed rule will establish restrictions upon, and control the movement of, vessels in a specified area of the Captain of the Port Lake Michigan zone.

The Captain of the Port, Lake Michigan will notify the public of the enforcement of the special local regulations in this proposal by all appropriate means. Such means of notification will include, but are not limited to, Broadcast Notice to Mariners and Local Notice to Mariners. The events within this proposed rule are expected to occur on certain dates each year. Because these dates are subject to change, the Coast Guard will provide notice of any change in date via a Notice of Enforcement. Additionally, the Coast Guard will also provide a notice via a Broadcast Notice to Mariners.

D. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes or executive orders.

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving

Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We conclude that this proposed rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The special local regulations established by this proposed rule will be periodic, of short duration, and designed to minimize impact on navigable waters. Thus, restrictions on vessel movement are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the proposed regulated areas when permitted by the Captain of the Port.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small

businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in affected waters within the Lake Michigan Zone on the days in which these special local regulations are enforced.

This proposed rule would not have a significant economic impact on a substantial number of small entities for the reasons discussed in the Regulatory Planning and Review section above.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule.

If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and determined that this rule does not have implications for federalism.

6. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State,

local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

7. Taking of Private Property

This proposed rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

8. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

9. Protection of Children from Environmental Health Risks

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

10. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

11. Energy Effects

This proposed rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

12. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

13. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of special

local regulations issued in conjunction with a regatta or marine parade, and, therefore it is categorically excluded from further review under paragraph 34(h) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Revise §100.903 to read as follows:

§ 100.903 Harborfest Dragon Boat Race; South Haven, MI.

(a) Regulated Area. A regulated area is established on the Black River in South Haven, MI within the following coordinates starting at 42°24'13.6" N, 086°16'41" W; then southeast 42°24'12.6" N, 086°16'40" W; then northeast to 42°24'19.2" N,

086°16'26.5" W; then northwest to 42°24'20.22" N, 086°16'27.4" W; then back to point of origin. (NAD 83).

(b) Special Local Regulations. The regulations of § 100.901 apply. No vessel may enter, transit through, or anchor within the regulated area without the permission of the Coast Guard Patrol Commander.

(c) Effective Date. These regulations are effective annually on the Saturday and Sunday of the 4th weekend of June, from 6 a.m. until 7 p.m. The time and date for this event are subject to change. In the event of a schedule change, the Coast Guard will issue a Notice of Enforcement with the exact date and time that this regulated area will be enforced.

3. Remove and reserve § 100.904

4. Revise § 100.905 to read as follows:

§ 100.905 Door County Triathlon; Door County, WI.

(a) Regulated Area. A regulated area is established to include all waters of Horseshoe Bay within a 1000-yard radius from a position at 45°00'52.6" N, 087°20'6.7" W. (NAD 83).

(b) Special Local Regulations. The regulations of § 100.901 apply. No vessel may enter, transit through, or anchor within

the regulated area without the permission of the Coast Guard Patrol Commander.

(c) Effective Date. These regulations are effective annually on the Saturday and Sunday of the third weekend of July; from 7 a.m. to 10 a.m. The time and date for this event are subject to change. In the event of a schedule change, the Coast Guard will issue a Notice of Enforcement with the exact date and time that this regulated area will be enforced.

5. Revise § 100.906 to read as follows:

§ 100.906 Grand Haven Coast Guard Festival Waterski Show, Grand Haven, MI.

(a) Regulated Area. All waters of the Grand River at Waterfront Stadium from approximately 350 yards upriver to 150 yards downriver of Grand River Lighted Buoy 3A (Lightlist number 19000) within the following coordinates: 43°04' N, 086°14'12" W; then east to 43°03'56" N, 086°14'4" W; then south to 43°03'45" N, 086°14'10" W; then west to 43°03'48" N, 086°14'17" W; then back to the point of origin. (NAD 83).

(b) Special Local Regulations. The regulations of § 100.901 apply. No vessel may enter, transit through, or anchor within

the regulated area without the permission of the Coast Guard Patrol Commander.

(c) Effective Date. These regulations are effective annually the Tuesday before the first Saturday in August; 7 p.m. to 9 p.m. The time and date for this event are subject to change. In the event of a schedule change, the Coast Guard will issue a Notice of Enforcement with the exact date and time that this regulated area will be enforced.

6. Revise § 100.907 to read as follows:

§ 100.907 Milwaukee River Challenge; Milwaukee, WI.

(a) Regulated Area. All waters of the Milwaukee River from the junction with the Menomonee River at position 43°01'54.9" N, 087°54'37.6" W to the East Pleasant St. Bridge at position 43°03'5.7" N, 087°54'28.1" W (NAD 83). All waters of the Menomonee River from the North 25th St. Bridge at position 43°01'57.4" N, 087°56'40.9" W to the junction with the Milwaukee River (NAD 83).

(b) Special Local Regulations. The regulations of § 100.901 apply. No vessel may enter, transit through, or anchor within the regulated area without the permission of the Coast Guard Patrol Commander.

(c) Effective date. These regulations are effective annually on the third Saturday of September; from 8:00 a.m. to 4:00 p.m. The time and date for this event are subject to change. In the event of a schedule change, the Coast Guard will issue a Notice of Enforcement with the exact date and time that this regulated area will be enforced.

7. Revise § 100.909 to read as follows:

§ 100.909 Chinatown Chamber of Commerce Dragon Boat Race;
Chicago, IL.

(a) Regulated Area. All waters of the South Branch of the Chicago River from the West 18th Street Bridge at position 41°51'28" N, 087°38'06" W to the Amtrak Bridge at position 41°51'20" N, 087°38'13" W. (NAD 83).

(b) Special Local Regulations. The regulations of § 100.901 apply. No vessel may enter, transit through, or anchor within the regulated area without the permission of the Coast Guard Patrol Commander.

(c) Effective Date. These regulations are effective annually on the second Friday and Saturday of July from 11:30 a.m. to 5 p.m. The time and date for this event are subject to change. In the event of a schedule change, the Coast Guard will issue a Notice of Enforcement with the exact date and time that this regulated area will be enforced.

DATED: May 24, 2013

M.W. SIBLEY
Captain, U.S. Coast Guard
Captain of the Port, Lake Michigan

[FR Doc. 2013-14116 Filed 06/13/2013 at 8:45 am; Publication Date: 06/14/2013]